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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,179	07/27/2001	James R. Michler	019384-9139	9647

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EXAMINER

KRIZEK, JANICE LEE

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/917,179

Applicant(s)

Michler et al.

Examiner

Janice Krizek

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 3-31-2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-118 is/are pending in the application.
- 4a) Of the above, claim(s) 35-80 and 96-118 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 and 81-95 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. Applicant's election with traverse of Group II, claims 20-34 and 88-95, in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the methods of Group II cannot be performed by hand and should not be distinctly classified relative to the apparatus claims of Group I. In light of reconsideration of the requirement for restriction between Groups I and II, the inventions of Group I and of Group II are rejoined and an action on claims 1-34 and 81-95 follows.

Claims 35-80 and 96-118 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made without traverse in Paper No. .

2. The disclosure is objected to because of the following informalities:

In the third line of claim 3, "the first actuator, the first separator" should be --the direction that the first actuator moves the first separator finger in, the first separator--.

In the second line of claim 10, "separation" should be --separator--. Appropriate correction is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 81-87 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for "the first separator finger" recited in the penultimate line of claim 81.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 5, 6, 8, 11-13, 20, 21 and 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Buck.

Buck discloses an apparatus for stacking sheets from a starwheel assembly 41 which includes barrier 19, first separator finger 47 and second separator finger 39.

7. Claims 1-34 and 81-95 are rejected under 35 U.S.C. 102(b) as being anticipated by Hauschild et al.

Hauschild et al. disclose an apparatus for stacking sheets from a starwheel assembly 6, 7 which includes barrier 52, 53, first separator fingers 13, 14 and second separator fingers 11, 12. Re claim 2, note second actuator 43 coupled to second separator finger 12 of Hauschild et al. Re claim 3, note first and third actuators 35, 51 coupled to first separator finger 13 of Hauschild et al.

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8. Claims 1-34 and 81-95 are rejected under 35 U.S.C. 102(b) as being anticipated by Beeman et al.

Beeman et al. disclose an apparatus for stacking sheets from a starwheel assembly 52 which includes barrier 248, 250, first separator finger 56 and second separator finger 54. Re claim 2, note second actuator 84, 86 coupled to second separator finger 54 of Beeman et al. Re claim 3, note first and third actuators 176, 234 coupled to first separator finger 56 of Beeman et al.

9. Claims 1-34 and 81-95 are rejected under 35 U.S.C. 102(b) as being anticipated by Couturier.

Couturier discloses an apparatus for stacking sheets from a starwheel assembly 20 which includes barrier 61, first separator finger 28 and second separator finger 50. Re claim 2, note second actuator 18 coupled to second separator finger 50 of Couturier. Re claim 3, note first and third actuators 14, 36 coupled to first separator finger 28 of Couturier.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Janice Krizek whose telephone number is (703) 308-2026. The examiner can normally be reached on Mondays through Fridays from 9:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis, can be reached at (703) 308-3248. The fax numbers for Technology Center 3600 are (703) 872-9326 (for responses before final rejection), (703) 872-9327 (for responses after final rejection) and (703) 872-9325 (for customer service).


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Center receptionist whose telephone number is (703) 308-1113.

jlk  
June 14, 2003

 6-14-03  
Janice L. Krizek  
Primary Examiner  
Technology Center 3600